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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,057	03/04/2002	Martin Hurich	10191/2276	6708

26646 7590 07/14/2005

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EXAMINER	
PEIKARI, BEHZAD	

ART UNIT	PAPER NUMBER
2189	

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/091,057	HURICH ET AL.	
	Examiner	Art Unit	
	B. James Peikari	2189	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 May 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8* is/are pending in the application.

4a) Of the above claim(s) *7 and 8* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 May 2005* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *5/23/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on March 2, 2001. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The Information Disclosure Statement submitted on May 23, 2005 has been considered by the examiner and a initialed and signed copy is attached hereto.

Drawings

3. The previous objections to the drawings are withdrawn to due to the amended drawings filed on May 23, 2005. These new drawings are objected to as being informal. Formal drawings will be required should the application pass to issue.

Specification

4. The previous objection to the specification is withdrawn due to the amendment filed on May 23, 2005.

5. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

6. The previous rejections under 35 U.S.C. 112, first paragraph, are withdrawn due to the amendment filed on May 23, 2005.

7. The previous rejections under 35 U.S.C. 112, second paragraph, are withdrawn due to the amendment filed on May 23, 2005.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. Claims 1, 2 and 4-6 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Ruiz et al., U.S. 6,195,776.

As for claims 1 and 6, a method of safeguarding at least one program part that is critical to safety against inadvertent execution, comprising executing the at least one program part in a predetermined chronological sequence (*all software programs run in a predetermined chronological sequence, adjusted by any input values, note the ATPG analysis program "and similar analysis related programs" in column 5*); at a certain point in time in the execution, generating a pattern using program code in the at least one program part (*note the test patterns generated by the ATPG program code*); at least one point in time checking whether the pattern (*i.e., "string of bits"*) is present (*note column 10, lines 53 et seq.*); and terminating the execution of the program part if the pattern is determined not to be present (*note the time-out or reset that occurs when an attempt to locate the pattern shows that the memory is defective or non-scannable, note column 11, lines 4 et seq.*)

As for claim 2, generating a pattern at the beginning of the execution of the program (*note column 10, lines 53 et seq.*)

As for claims 4 and 5, checking the state of a hardware component as an external boundary condition (*note column 11, lines 4 et seq.*)

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claim 3 is rejected under 35 U.S.C. 103 as being unpatentable over Ruiz et al., U.S. 6,195,776, in view of Tinaztepe et al., U.S. 5,913,022.

Although the Ruiz et al. taught the invention as disclosed above, the use of volatile memory was not explicitly mentioned. However, Tinaztepe et al. also taught a system for utilizing test patterns to prevent or control program flow to defective circuitry, as in the Inagaki system, and further taught the use of a volatile memory element (*note the random access memory of Tinaztepe et al., Figure 1*).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the volatile memory of Tinaztepe et al. in the system of Ruiz et al., since (a) such memory may have provided faster access to the test program than some non-volatile memory types, such as disk or tape, or even the flash memory of Inagaki, and (b) the Tinaztepe et al. system was specifically designed with the same function to to prevent or control program flow to defective circuitry, in a manner compatible with the Ruiz et al. system.

Response to Amendment

12. The remarks attached to the amendment filed on May 23, 2005 have been carefully considered by the examiner. Due to the amendments, the previous rejection has been withdrawn and a new rejection is made herewith.

If applicant believes that the disclosure contains allowable subject matter that has not yet been incorporated into the claims, applicant is encouraged to contact the examiner at the telephone numbers below to discuss such subject matter.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Peikari whose telephone number is (571) 272-4185. The examiner is generally available between 7:00 am and 7:30 pm, EST, Monday through Wednesday, and between 5:30 am and 4:00 pm on Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Kim, can be reached at (571) 272-4182.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center at 866-217-9197 (toll-free).

B. James Peikari
Primary Examiner
Art Unit 2189

7/11/05